

The 14th May, 1980

No. 11(112)-80-3Lab./6788.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Outler Hammer India Limited, Faridabad :—

BEFORE SHRI I. P. CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 123 of 1977

between

SHRI SOHAN LAL KUMAR WORKMAN AND THE MANAGEMENT OF M/S OUTLER  
HAMMER INDIA LIMITED, FARIDABAD

Present :—

Shri H. R. Dua for the workman.

Shri B. R. Grover for the management.

#### AWARD

By order No. ID/FD/898-73/28237, dated 29th July, 1977, the Governor of Haryana referred the following dispute between the management of M/s Outler Hammer India Limited, Faridabad and its workman Shri Sohan Lal Kumar, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Sohan Lal Kumar was justified and in order ?  
If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issue was framed on 7th December, 1977 :—

Whether the domestic enquiry has been held in accordance with the principles of natural justice and is not vitiated ?

Both the parties lead their evidence and argued on this issue. My Ld. Predecessor,—*vide* his orders, dated 1st February, 1980 decided this issue in favour of the management holding that the enquiry was proper and in accordance with the principles of natural justice and is not vitiated. After holding the domestic enquiry proper and not vitiated he again framed the following two issues :—

1. Whether the termination of the services of the workman is justified and in order ?
2. Relief ?

He fixed the case for 25th February, 1980 for evidence and arguments of the parties.

In pursuance of this order the parties lead their evidence oral and documentry both. The workman Sohan Lal Kumar appeared himself as his own witness and produced documents Exhibit W-1 to W-6. These are as under :—

Exhibit W-1 is a letter issued by the management to the workman, dated 5th August, 1975, Exhibit W-2 letter issued by the management to the workman, dated 28th December, 1974. Exhibit W-3 is letter issued by the management, dated 5th August, 1974, Exhibit W-4 is the letter issued by the management, dated 2nd December, 1973. Exhibit W-5 is copy of record of increment given to the workman by the management, Ex. W-1/1 is the copy of wage slip of the workman for 12/75 issued by the management. Exhibit W-6 is the application of the workman given to the management for supply of some records of the management. Exhibit W-7 is printed copy of the Certified Standing Orders of the management.

Exhibit W-2 is the copy of appointment letter of the workman issued by the management, dated 30th September, 1970. The management produced Shri L. N. Gosain, Administrative Officer of the Company and produced 4 documents which were marked as A B C and D by me at the time of arguments.

After the parties closed their evidence, arguments at length were heard on 29th April, 1980. The learned representative of the management has attached the order of termination on the following counts :—

1. That the previous record of the workman was clear and good and he had been given appreciation letters by the management which are Ex. W-1 to W-4.
2. That the workman was victimised for his trade union activities.
3. That the termination is illegal being ordered from a date prior to the date of issue of the orders of termination.

4. That the General Manager is not competent to terminate the services of the workman.
5. That the punishment was excessive.

The contentions raised by the workman do not find favour with me on the following facts:—

1. It is very clear from the evidence of Shri L.N. Gossin, MW-1 that the company in its routine while granting increments used the words "In appreciation of your services the management is pleased to grant." His testimony finds support from other four documents filed by the management marked as A B C and D where again exactly same words have been used while granting increments to other workman in the Company.

2. The workman was victimised for trade union activities also does not stand to scrutiny. He has himself admitted in his own cross-examination that he is only an ordinary member of the Union like all the other workers. He even does not know the name of the General Secretary of the union, and this creates doubt about his being even an active ordinary member of the Union. So the question of any victimisation does not appeal to me.

3. The contention of termination being ordered from retrospective effect finds some force. He could not be terminated from a date prior to the date of passing and issuing orders of termination to him. However, I am bound by the decision of the Hon'ble Supreme Court in the case of Gujrat Mineral Development Corporation, versus Sh P. H. Brahm Bhatt, 1974 S.C.C. (L. & S.) Page 102 para 7 in which their Lordships were pleased to hold that the orders of termination of the services of the workman which were from retrospective date was not illegal totally. The orders were bad to the extent of its being operative from anterior date. I, therefore, hold that the orders will be operative only from the date of termination which is 17th January, 1976 and not from the date of suspension, i.e., 25th December, 1975 as per Exhibit W-7.

In view of the above discussion, I hold that the termination to be effective from 17th January, 1976 and direct the management to pay to the workman his full wages and other benefits due to him for the period from 25th December, 1975 to 17th January, 1976 to meet the ends of justice.

4. The argument that the services of the workman could not be terminated by the General Manager of the Company. On the perusal of Exhibit W-2, it was revealed that Shri K. K. Nohria in the instant case is the appointing authority as well as terminating authority of the workman. The contention of the workman's representative that the General Manager is not competent to dismiss the workman cannot be accepted by me. The authority cited by the representative of the workman 1968 LLJ Vol. I page 571 in his support does not also support this workman here, as the same can be distinguished on facts.

5. Regarding the punishment being excessive, I find from the perusal of the file, that no such grounds have been advanced in the Demand Notice claim statement or Rejoinder, nor has any evidence been led on this point. Only an after thought idea as late as at the arguments stage when much of water has flown under the bridges, has been advanced. This is actually no stage for such a prayer more specially the workman has been held to have indulged into indiscipline, by my learned predecessor cannot help him at this belated stage.

6. The workman has been charged for serious acts of misconduct and if such indiscipline are allowed to continue it will add more to endanger the industrial peace and harmony instead of helping it.

In view of my above discussion, I hold that the termination of the services of this workman to be proper, justified and in order. The workman is not entitled to any relief except full wages and other benefits, he is entitled to for the period 25th December, 1975 to 17th January, 1976. I give my award accordingly. No orders as to costs.

I answer the reference while returning the award in these terms.

Dated, the 2nd May, 1980.

I. P. CHAUDHARY,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

Endorsement No, IC/Fbd/80/778, dated the 2nd May, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated, the 2nd May, 1980.

I. P. CHAUDHARY,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

H. L. GUGNANI,  
Secretary to Government, Haryana,  
Labour and Employment Department.